

PART 640—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

AUTHORITY: Secs. 1501 *et seq.*, Pub. L. 105–178, 112 Stat. 107, 241, as amended; 23 U.S.C. 181–189 and 315; 49 CFR 1.51.

§ 640.1 Cross-reference to credit assistance.

The regulations in 49 CFR part 80 shall be followed in complying with the requirements of this part. Title 49, CFR, part 80 implements the Transportation Infrastructure Finance and Innovation Act of 1998, secs. 1501 *et seq.*, Pub. L. 105–178, 112 Stat. 107, 241.

[64 FR 29753, June 2, 1999]

PART 655—PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Subpart A—General

Sec.

- 655.1 Purpose.
- 655.2 Overview.
- 655.3 Applicability.
- 655.4 Definitions.
- 655.5 Stand-down waivers for drug testing.
- 655.6 Preemption of state and local laws.
- 655.7 Starting date for testing programs.

Subpart B—Program Requirements

- 655.11 Requirement to establish an anti-drug use and alcohol misuse program.
- 655.12 Required elements of an anti-drug use and alcohol misuse program.
- 655.13 [Reserved]
- 655.14 Education and training programs.
- 655.15 Policy statement contents.
- 655.16 Requirement to disseminate policy.
- 655.17 Notice requirement.
- 655.18–655.20 [Reserved]

Subpart C—Prohibited Drug Use

- 655.21 Drug testing.
- 655.22–655.30 [Reserved]

Subpart D—Prohibited Alcohol Use

- 655.31 Alcohol testing.
- 655.32 On duty use.
- 655.33 Pre-duty use.
- 655.34 Use following an accident.
- 655.35 Other alcohol-related conduct.
- 655.36–655.40 [Reserved]

Subpart E—Types of Testing

- 655.41 Pre-employment drug testing.
- 655.42 Pre-employment alcohol testing.
- 655.43 Reasonable suspicion testing.
- 655.44 Post-accident testing.
- 655.45 Random testing.
- 655.46 Return to duty following refusal to submit to a test, verified positive drug test result and/or breath alcohol test result of 0.04 or greater.
- 655.47 Follow-up testing after returning to duty.
- 655.48 Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04.
- 655.49 Refusal to submit to a drug or alcohol test.
- 655.50 [Reserved]

Subpart F—Drug and Alcohol Testing Procedures

- 655.51 Compliance with testing procedures requirements.
- 655.52 Substance abuse professional (SAP).
- 655.53 Supervisor acting as collection site personnel.
- 655.54–655.60 [Reserved]

Subpart G—Consequences

- 655.61 Action when an employee has a verified positive drug test result or has a confirmed alcohol test result of 0.04 or greater, or refuses to submit to a test.
- 655.62 Referral, evaluation, and treatment.
- 655.63–655.70 [Reserved]

Subpart H—Administrative Requirements

- 655.71 Retention of records.
- 655.72 Reporting of results in a management information system.
- 655.73 Access to facilities and records.
- 655.74–655.80 [Reserved]

Subpart I—Certifying Compliance

- 655.81 Grantee oversight responsibility.
- 655.82 Compliance as a condition of financial assistance.
- 655.83 Requirement to certify compliance.

AUTHORITY: 49 U.S.C. 5331; 49 CFR 1.51.

SOURCE: 66 FR 42002, Aug. 9, 2001, unless otherwise noted.

Subpart A—General

§ 655.1 Purpose.

The purpose of this part is to establish programs to be implemented by employers that receive financial assistance from the Federal Transit Administration (FTA) and by contractors of

those employers, that are designed to help prevent accidents, injuries, and fatalities resulting from the misuse of alcohol and use of prohibited drugs by employees who perform safety-sensitive functions.

§ 655.2 Overview.

(a) This part includes nine subparts. Subpart A of this part covers the general requirements of FTA's drug and alcohol testing programs. Subpart B of this part specifies the basic requirements of each employer's alcohol misuse and prohibited drug use program, including the elements required to be in each employer's testing program. Subpart C of this part describes prohibited drug use. Subpart D of this part describes prohibited alcohol use. Subpart E of this part describes the types of alcohol and drug tests to be conducted. Subpart F of this part addresses the testing procedural requirements mandated by the Omnibus Transportation Employee Testing Act of 1991, and as required in 49 CFR Part 40. Subpart G of this part lists the consequences for covered employees who engage in alcohol misuse or prohibited drug use. Subpart H of this part contains administrative matters, such as reports and recordkeeping requirements. Subpart I of this part specifies how a recipient certifies compliance with the rule.

(b) This part must be read in conjunction with 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

§ 655.3 Applicability.

(a) Except as specifically excluded in paragraphs (b), and (c) of this section, this part applies to:

(1) Each recipient and subrecipient receiving Federal assistance under:

- (i) 49 U.S.C. 5307, 5309, or 5311; or
- (ii) 23 U.S.C. 103(e)(4); and

(2) Any contractor of a recipient or subrecipient of Federal assistance under:

- (i) 49 U.S.C. 5307, 5309, or 5311; or
- (ii) 23 U.S.C. 103(e)(4).

(b) A recipient operating a railroad regulated by the Federal Railroad Administration (FRA) shall follow 49 CFR Part 219 and § 655.83 for its railroad op-

erations, and shall follow this part for its non-railroad operations, if any.

(c) A recipient operating a ferryboat regulated by the United States Coast Guard (USCG) that satisfactorily complies with the testing requirements of 46 CFR Parts 4 and 16, and 33 CFR Part 95 shall be in concurrent compliance with the testing requirements of this part. This exception shall not apply to the provisions of section 655.45, or subparts G, or H of this part.

[66 FR 42002, Aug. 9, 2001, as amended at 71 FR 69198, Nov. 30, 2006]

§ 655.4 Definitions.

For this part, the terms listed in this section have the following definitions. The definitions of additional terms used in this part but not listed in this section can be found in 49 CFR Part 40.

Accident means an occurrence associated with the operation of a vehicle, if as a result:

- (1) An individual dies; or
- (2) An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or
- (3) With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
- (4) With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation.

Administrator means the Administrator of the Federal Transit Administration or the Administrator's designee.

Anti-drug program means a program to detect and deter the use of prohibited drugs as required by this part.

Certification means a recipient's written statement, authorized by the organization's governing board or other authorizing official that the recipient has complied with the provisions of this part. (See § 655.82 and § 655.83 for certification requirements.)